

AMENDED IN SENATE MARCH 30, 2016

SENATE BILL

No. 1162

Introduced by Senator Berryhill

February 18, 2016

~~An act to amend Section 20816 of the Government Code, relating to retirement. An act to add Section 20817 to the Government Code, relating to public retirement.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1162, as amended, Berryhill. ~~Public employees' retirement. Public employees' retirement: Mammoth Lakes Fire District.~~

Existing law, the Public Employees' Retirement Law, creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service credit, and final compensation. Existing law vests the Board of Administration of PERS with management and control of the system. Existing law authorizes any public agency to participate in and make all or part of its employees members of PERS, as specified.

This bill would authorize the Mammoth Lakes Fire District (MLFD) to request that the board transfer, and upon that request would require the board to transfer, available excess assets credited to the miscellaneous member category from the MLFD's employer account to satisfy the MLFD's unfunded accrued actuarial obligations for its safety plan if specified conditions are met.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Mammoth Lakes Fire District.

~~The Public Employees' Retirement Law governs the rate of employer contributions to the Public Employees' Retirement System. The law requires, among other things, that all assets of an employer be used in~~

determining the employer contribution rate for the membership comprising the basis of the computation, and that those assets held be recognized over the same funding period used to amortize unfunded accrued actuarial obligations, as specified.

~~This bill would make nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 20817 is added to the Government Code,
2 to read:
- 3 20817. (a) The Mammoth Lakes Fire District (MLFD) may
4 request that the board transfer available excess assets credited to
5 the miscellaneous member category from the MLFD's employer
6 account to satisfy the MLFD's unfunded accrued actuarial
7 obligations for its safety plan if both of the following are true of
8 the miscellaneous plan from which the assets will be transferred,
9 as of the most recently completed valuation:
- 10 (1) The actuarial value of assets attributable to the MLFD's
11 miscellaneous plan exceeds 200 percent of the accrued actuarial
12 liability, as determined by the chief actuary in accordance with
13 Section 20816.
- 14 (2) The market value of assets attributable to the MLFD's
15 miscellaneous plan exceeds 150 percent of the amount which is
16 the actuarial equivalent, including contingencies for mortality
17 fluctuations, of the amount this system would be obligated to pay
18 after the effective date of contract termination to, or on account
19 of, persons who are or have been employed by, and on account of
20 service rendered by them to, the MLFD, as determined by the chief
21 actuary in accordance with subdivision (a) of Section 20576.
- 22 (b) Upon request, the board shall transfer the assets, in which
23 case the transferred assets shall be used solely to satisfy the
24 MLFD's current unfunded accrued actuarial obligations in its
25 safety plan. The transferred assets shall remain in the trust fund
26 and shall be for the exclusive use of the MLFD's safety plan.
- 27 (c) The amount that may be transferred pursuant to this section
28 shall not exceed either of the following:

1 (1) *The difference between the actuarial value of assets*
 2 *attributable to the MLFD's miscellaneous plan and the amount*
 3 *described in paragraph (1) of subdivision (a).*

4 (2) *The difference between the market value of assets*
 5 *attributable to the MLFD's miscellaneous plan and the amount*
 6 *described in paragraph (2) of subdivision (a).*

7 (d) *Before requesting the board to transfer available excess*
 8 *assets in its miscellaneous plan to satisfy the MLFD's unfunded*
 9 *accrued actuarial obligations for its safety plan, the MLFD shall*
 10 *notify its employees of the intended request. The notice to the*
 11 *employees shall be in writing. The notice to the employees shall*
 12 *be issued at least two weeks prior to requesting the transfer of*
 13 *assets between the plans.*

14 (e) *The MLFD shall submit a statement in writing to the board*
 15 *that the MLFD has notified its employees as described in*
 16 *subdivision (d) in order for the board to make the transfer.*

17 SEC. 2. *The Legislature finds and declares that a special law*
 18 *is necessary and that a general law cannot be made applicable*
 19 *within the meaning of Section 16 of Article IV of the California*
 20 *Constitution because of the unique circumstances faced by the*
 21 *Mammoth Lakes Fire District in funding its pension obligations.*

22 ~~SECTION 1. Section 20816 of the Government Code is~~
 23 ~~amended to read:~~

24 ~~20816. (a) Notwithstanding any other provision of this part,~~
 25 ~~all assets of an employer shall be used in the determination of the~~
 26 ~~employer contribution rate for the membership comprising the~~
 27 ~~basis of the computation. Assets held shall be recognized over the~~
 28 ~~same funding period used to amortize unfunded accrued actuarial~~
 29 ~~obligations, regardless of whether those assets are in excess of the~~
 30 ~~accrued actuarial obligation, using the entry age normal funding~~
 31 ~~method.~~

32 ~~(b) On and after January 1, 1999, contracting agencies for which~~
 33 ~~the actuarial value of assets exceeds the present value of benefits~~
 34 ~~as of the most recently completed valuation, as determined by the~~
 35 ~~chief actuary, may request that the board transfer employer assets~~
 36 ~~to member accumulated contribution accounts to satisfy all or a~~
 37 ~~portion of the member contributions required by this part. That~~
 38 ~~transfer shall be over a 12-month period provided the actuarial~~
 39 ~~value of assets exceeds the present value of benefits. In determining~~
 40 ~~the present value of benefits and the actuarial value of assets for~~

purposes of this part, liabilities and assets attributed to the 1959 survivor allowance may not be included. On and after January 1, 2003, a transfer of assets may not be made pursuant to this subdivision unless all or the same portion of the member contributions of each member in a membership classification are satisfied through the transfer. An employer electing a transfer of assets pursuant to this subdivision shall satisfy the members' contributions for a period of not less than one month and not more than one year.

(e) On and after January 1, 2002, any contracting agency for which the actuarial value of assets exceeds the present value of benefits as of the most recently completed valuation, as determined by the chief actuary, may request that the board transfer from the contracting agency's employer account excess assets, as determined by the board subject to the requirements and limitations of Section 420 of the Internal Revenue Code (26 U.S.C. Sec. 420), to a retiree health account established by the board, in its discretion, in the contracting agency's employer account pursuant to Section 401(h) of the Internal Revenue Code (26 U.S.C. 401(h)) for the purpose of providing health benefits to the contracting agency's retirees and their covered dependents. The board may, in its discretion, transfer excess assets from the contracting agency's employer account to that contracting agency's retiree health account within that agency's employer account, if the transfer meets the conditions of a qualified transfer pursuant to Section 420 of the Internal Revenue Code (26 U.S.C. Sec. 420). The transferred assets shall be used solely for the payment of current retiree health liabilities. That qualified transfer shall be made only once each year. The board may adopt regulations necessary to implement this subdivision. Notwithstanding any other provision of law, the regulations may provide for the nonforfeiture of accrued pension benefits of participants and beneficiaries of a plan from which excess assets are transferred to the extent necessary for the transfer to meet the conditions of a qualified transfer pursuant to Section 420 of the Internal Revenue Code (26 U.S.C. Sec. 420), and may include any other provision necessary under Section 420 of the Internal Revenue Code (26 U.S.C. Sec. 420) or Section 401(h) of the Internal Revenue Code (26 U.S.C. Sec. 401(h)) to accomplish the purposes of this subdivision.

- 1 ~~(d) For the purpose of this section, “employer” means any~~
- 2 ~~contracting agency, the state, or a school employer.~~
- 3 ~~(e) The actuarial report in the annual financial report shall also~~
- 4 ~~express the effect upon employer contribution rates of this section~~
- 5 ~~and of the recognition of net unrealized gains and losses.~~

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